

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION
 05 CV 2641 AM 57

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BY SEALED COURT ORDER

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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

JSW

22 U.S. COMMODITY FUTURES TRADING)
 23 COMMISSION and THE COMMISSIONER)
 24 OF CORPORATIONS OF THE STATE OF)
 25 CALIFORNIA,

C 05 2641

26 Plaintiffs,) Case No.:

27 vs.)

28 NATIONAL INVESTMENT) *Ex Parte* Motion for Statutory Restraining
 CONSULTANTS, INC., a California) Order, Expedited Discovery, Order to Show
 corporation, SOUTH CHINA) Cause, and Other Ancillary Relief

1 INVESTMENTS, INC., a California)
 2 corporation,)
 3 PACIFIC BEST GROUP LTD, a.k.a.) FILED UNDER SEAL
 4 PACIFIC BEST COMPANY LTD, a British)
 Virgin Islands Corporation, YI KERRY XU,)
 5 an individual, RUN PING ZHOU a.k.a)
 FLORA ZHOU, an individual, and WEI M.)
 TSE a.k.a. RAYMOND TSE, an individual,)
 Defendants,)
 6)
 7 and)
 8)
 9 THERESA C. WONG, an individual,)
 Relief Defendant.)
 10

11 Pursuant to Section 6c of the Commodity Exchange Act (“Act”), 7 U.S.C. § 13a-1
 12 (2002), Plaintiffs, the United States Commodity Futures Trading Commission (“Commission”)
 13 and the Commissioner of Corporations of the State of California (“State of California”)
 14 collectively, (“Plaintiffs”), move for a statutory restraining order, a preliminary injunction,
 15 expedited discovery, and other ancillary relief against National Investment Consultants, Inc.,
 16 South China Investments, Inc., Pacific Best Group Limited, a.k.a. Pacific Best Company Ltd.,
 17 Run Ping Zhou, a.k.a Flora Zhou, Yi Kerry Xu, and Wei M. Tse, a.k.a. Raymond Tse,
 18 (collectively “defendants”):

- 20 (1) prohibiting defendants from violating Sections 4b(a)(2)(i) and (iii) of the Act, 7
 21 U.S.C. §§ 6b(a)(2)(i) and (iii)(2004), and Commission Regulations 1.1(b)(1) and
 22 (3), 17 C.F.R. §§ 1.1(b)(1) and (3)(2002);
- 23 (2) freezing the assets of defendants;
- 24 (3) prohibiting defendants, their agents, attorneys, partners, servants, representatives,
 25 employees, any person(s) acting or purporting to act for or on their behalf, and
 26 corporate and partnership entities, from dissipating, transferring or encumbering
 27 defendants’ or relief defendants’ assets, including any assets held outside the
 28

United States;

- (4) requiring any financial or brokerage institution, business entity, or person that holds, controls or maintains custody of any account or asset of, or at any time since July 1, 2000 has held, controlled, or maintained custody of, any account of defendants, to: (a) prohibit any person from transferring, dissipating, withdrawing or encumbering any such current assets; (b) deny any person access to defendants' safe deposit boxes; and (c) provide the Plaintiffs with a statement describing assets held on behalf of defendants and allowing representatives of the Plaintiffs access to inspect and copy records pertaining to the accounts;
 - (5) requiring the defendants to: (a) provide the Plaintiffs with a full accounting, within three business days of the order's service, of documents, assets and all funds received from clients and the use of or current location of all such funds; (b) provide the Plaintiffs with a list containing the names, addresses, and telephone numbers of all of defendants' clients; (c) transfer foreign-held assets and documents to the United States; and (d) sign consents to the release of financial records that waive foreign bank secrecy laws;
 - (6) prohibiting defendants, their agents, attorneys, partners, servants, representatives, employees, attorneys, any person(s) acting or purporting to act for or on their behalf from: (1) destroying or altering books, records or other documents of defendants and relief defendants; and (2) denying the receiver and agents of Plaintiffs access to inspect and copy any such books, records and documents of defendants either on or off the premises where they may be situated; and
 - (7) allowing expedited discovery in advance of discovery allowed by Rule 26 of the Federal Rules of Civil Procedure.

1 In support of this motion, Plaintiffs respectfully refer the Court to the Plaintiffs'
2 Memorandum of Law and exhibits filed herewith. As explained in Plaintiffs' Memorandum of
3 Law, the Defendants have engaged in the fraudulent solicitation of investor funds and have
4 offered illegal off-exchange futures contracts in violation of Sections 4b(a)(2)(i) and (iii) and 4(a)
5 of the Act, 7 U.S.C. §§ 6b(a)(2)(i) and (iii) and 6(a)(2004) and Commission Regulations
6 1.1(b)(1) and (3), 17 C.F.R. §§ 1.1(b)(1) and (3)(2002).

7
8 Unless the Court grants the relief for a statutory *ex parte* restraining order, it will be
9 unable to preserve funds for victims of Defendants' unlawful activities and to prevent the
10 destruction of records and other evidence of defendants' unlawful activities.

11
12 For these reasons, and as more fully set forth in the contemporaneously-filed
13 memorandum of points and authorities, and to enable Plaintiffs to determine the extent of
14 defendants' unlawful activities, expedited discovery is necessary.

15 WHEREFORE, Plaintiffs respectfully request that all relief requested herein be granted,
16 and that this Court enter the proposed statutory restraining order freezing assets, protecting
17 defendants' books and records, grant plaintiff's request to conduct expedited discovery for the
18 purpose of discovering defendants' assets, and to issue an order to show cause why a preliminary
19 injunction should not be issued by this Court.
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21 Dated: June 28, 2005
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24 Respectfully submitted,

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